

STATE OF MICHIGAN

BEFORE THE JUDICIAL TENURE COMMISSION

COMPLAINT AGAINST:

HON. JACK R. JELSEMA

FORMAL COMPLAINT NO. 67

**Judge, 62A District Court
Wyoming, MI 49509**

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FIRST AMENDED COMPLAINT

Pursuant to MCR 9.208(A), the Judicial Tenure Commission of the State of Michigan (Commission) files this Complaint against the Honorable Jack R. Jelsema (Respondent). Respondent is now and was at all material times a judge of the 62A District Court on assignment to the 17th Judicial Circuit. This action is taken pursuant to the authority of the Commission under Article 6, Section 30 of the Michigan Constitution of 1963, as amended, and MCR 9.200 *et seq.* The filing of this Complaint has been authorized and directed by resolution of the Commission.

Respondent is hereby charged with acts of judicial misconduct set forth as follows:

1. On November 4, 1985, a judgment of divorce was entered in Rosema v Rosema, 84-52548-DM. By terms of that judgment, primary physical custody of the children was awarded to the Plaintiff mother with the father ordered to pay child support and alimony.
2. In December 1991, the Plaintiff mother petitioned the 17th Judicial Circuit to modify child support. The matter was eventually transferred to Respondent for decision.

3. In May 1993, Respondent entered an order which terminated payment of alimony and modified payment of child support.
4. On September 26, 1995, the Michigan Court of Appeals affirmed Respondent's order of May 1993.
5. On October 29, 1996, the Michigan Supreme Court vacated the judgment of the Court of Appeals and remanded the case for recomputation of child support. The Supreme Court ordered that Respondent either effect the parties' 1985 agreement that the childrens' father pay a substantial portion of his income in excess of applicable child support guidelines for his children or provide "expanded findings of fact and conclusions of law in support of a different dispositional ruling."
6. After remand from the Supreme Court, the parties submitted briefs and Respondent held a hearing. On July 21, 1998, Respondent issued a written opinion interpreting the Supreme Court's order.
7. After exchange of financial information, obtaining of prior child support guidelines, and review of documents, counsel for plaintiff prepared a proposed order and submitted it under the 7-day rule. Counsel for the former husband objected to the proposed order.
8. Respondent heard arguments regarding the propriety of the proposed order and took the matter under advisement. Respondent rendered a decision February 7, 2000, approximately 11 months after the hearing and more than three years after remand from the Supreme Court.

9. Respondent's conduct, as described above in paragraphs 1-8, constitutes:

- a. Misconduct in office, as defined by the Michigan Constitution of 1963, Article VI, § 30, as amended, and MCR 9.205;
- b. Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, Article VI, §30, as amended, and MCR 9.205;
- c. Irresponsible or improper conduct which erodes public confidence in the judiciary, contrary to the Code of Judicial Conduct, Canon 2A;
- d. Conduct involving impropriety and the appearance of impropriety, contrary to the Code of Judicial Conduct, Canon 2A;
- e. Persistent failure to perform judicial duties or neglect in the performance of your judicial duties, contrary to MCR 9.205(C)(2) and (5);
- f. Failure to dispose promptly of the business of the court in violation of the Code of Judicial Conduct, Canon 3A(5); and
- g. Conduct violative of MCR 9.104(1) and (2) in that such conduct:

is prejudicial to the proper administration of justice; and

exposes the legal profession or the courts to obloquy, contempt, censure or reproach.

10. On February 14, 2000, the Commission invited Respondent's comments to Grievance No. 99-12551. Respondent neither submitted a reply nor requested additional time to respond.
11. On May 3, 2000, the Commission again provided Respondent with a copy of the grievance and requested his comment to Grievance No. 99-12551. Respondent was asked to respond by Friday, May 19, 2000. Respondent neither submitted a reply nor requested additional time to respond.
12. On June 22, 2000, Respondent was sent a 28-day letter inviting his comment to Grievance No. 99-12551, pursuant to MCR 9.207(C).
13. On September 11, 2000, Respondent was sent a second 28-day letter with respect to his failure or refusal to reply to prior communications from the Commission concerning Grievance No. 99-12551. Respondent neither submitted a reply nor requested additional time to respond.
14. Respondent's conduct, as described above in paragraphs 10-13, constitutes:
 - a. Misconduct in office as defined by the Michigan Constitution of 1963, Article VI, § 30 as amended, and MCR 9.205;
 - b. Conduct clearly prejudicial to the administration of justice as defined by the Michigan Constitution of 1963; Article VI, § 30, as amended, and MCR 9.205;
 - c. Irresponsible or improper conduct which erodes public confidence in the judiciary, contrary to the Code of Judicial Conduct, Canon 2A;

- d. Conduct involving impropriety and the appearance of impropriety, contrary to the Code of Judicial Conduct, Canon 2A;
- e. Failure to cooperate with the Commission during a preliminary investigation, contrary to MCR 9.213(B); and
- f. Conduct violative of MCR 9.104(1) and (2), in that such conduct:
 - is prejudicial to the proper administration of justice; and
 - exposes the legal profession or the courts to obloquy, contempt, censure or reproach.

- 15. Respondent presided over the divorce case of Engman v. Engman, No. 95-1170-DO.
- 16. On a regular basis, Respondent persistently failed to act or was persistently neglectful in performance of his duties. Respondent regularly and persistently permitted pending motions to remain undecided for unreasonable periods of time. Respondent further made decisions from the bench but arbitrarily and unreasonably refused to sign or delayed excessively the signing of such orders. Respondent also arbitrarily and unreasonably refused to hear or only selectively heard motions and ordered or directed that personnel at the 62-A District Court refuse to allow motions to be filed, scheduled or heard in Engman.

17. Respondent's conduct, as described above in paragraphs 15-16 constitutes:

- a) Misconduct in office, as defined by the Michigan Constitution of 1963, Article VI, § 30, as amended, and MCR 9.205;
- b) Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, Article VI, § 30, as amended, and MCR 9.205;
- c) Irresponsible or improper conduct which erodes public confidence in the judiciary, contrary to the Code of Judicial Conduct, Canon 2A;
- d) Conduct involving impropriety and the appearance of impropriety, contrary to the Code of Judicial Conduct, Canon 2A;
- e) Persistent failure to perform judicial duties or neglect in the performance of your judicial duties, contrary to MCR 9.205C)(2) and (5);
- f) Failure to dispose promptly of the business of the court in violation of the Code of Judicial Conduct, Canon 3A(5);
- g) Conduct violative of MCR 9.104(1) and (2) in that such conduct:

is prejudicial to the proper administration of justice; and

exposes the legal profession or the courts to obloquy, contempt, censure or reproach.

18. On August 24, 2000, the Commission invited Respondent's comments to Grievance No. 00-12699. Respondent neither submitted a reply nor requested additional time to respond.
19. On September 11, 2000, Respondent was sent a 28-day letter, inviting his comment to Grievance No. 00-12699. Respondent neither submitted a reply nor requested additional time to respond.
20. Respondent's conduct, as described above in paragraphs 18-19, constitutes:
 - (a) Misconduct in office, as defined by the Michigan Constitution of 1963, Art. VI, § 30, as amended, and MCR 9.205;
 - (b) Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, Art. VI, § 30, as amended, and MCR 9.205;
 - (c) Irresponsible or improper conduct which erodes public confidence in the judiciary, contrary to the Code of Judicial Conduct, Canon 2A;
 - (d) Conduct involving impropriety and the appearance of impropriety, contrary to the Code of Judicial Conduct, Canon 2A;
 - (e) Failure to cooperate with the Commission during a preliminary investigation, contrary to MCR 9.213(B); and
 - (f) Conduct violative of MCR 9.104(1) and (2), in that such conduct:

is prejudicial to the proper
administration of justice; and

exposes the legal profession or the
courts to obloquy, contempt, censure
or reproach.

Pursuant to MCR 9.209, Respondent is advised that an original
verified Answer to the foregoing Complaint, and nine copies thereof, must be filed
with the Commission within fourteen (14) days after service upon Respondent of
the Complaint. Such Answer shall be in a form similar to the answer in a civil
action in a circuit court and shall contain a full and fair disclosure of all facts and
circumstances pertaining to Respondent's alleged misconduct. Any willful
concealment, misrepresentation, or failure to file such answer and disclosure shall
be additional grounds for disciplinary action under the Complaint.

MICHIGAN JUDICIAL
TENURE COMMISSION

By: _____
Vesta Svenson (P21184)
Interim Executive Director
211 W. Fort Street, Ste. 1410
Detroit, Michigan 48226

DATED: October 25, 2000